

Application No. 13402/87  
by Ömer KARABULUT  
against the Federal Republic of Germany

The European Commission of Human Rights sitting in private  
on 11 October 1989, the following members being present:

MM. C.A. NØRGAARD, President

J.A. FROWEIN

S. TRECHSEL

F. ERMACORA

G. SPERDUTI

E. BUSUTTIL

G. JÖRUNDSSON

A.S. GÖZÜBÜYÜK

A. WEITZEL

J.-C. SOYER

H.G. SCHERMERS

H. DANELIUS

G. BATLINER

J. CAMPINOS

H. VANDENBERGHE

Mrs. G.H. THUNE

Sir Basil HALL

MM. C.L. ROZAKIS

L. LOUCAIDES

Mr. H.C. KRÜGER, Secretary to the Commission

Having regard to Article 25 of the Convention for the  
Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 13 October 1987  
by O.K. against the Federal Republic of Germany and registered  
on 25 November 1987 under file No. 13402/87;

Having regard to the Commission's decision of 14 March 1989 to  
give notice of the application to the respondent Government and to  
invite them to present before 2 June 1989 their observations in  
writing on the admissibility and merits of the application;

Having regard to the Government's letter, enclosing a copy of  
their letter to the applicant's representative with a draft agreement,  
of 29 May 1989;

Having regard to the Government's letter of 20 June 1989  
enclosing the agreement reached between the parties;

Having regard to the report provided for in Rule 40 of the  
Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

#### THE FACTS

The applicant is a Turkish citizen born in 1944 and living at  
Heilbronn. He is represented by Rechtsanwalt N. Wingerter, a lawyer  
practising at Heilbronn.

The facts submitted may be summarised as follows.

On 17 February 1986, at Heilbronn, the applicant, driving  
a private motor car, failed to obey a traffic-light.

By a regulatory fine order (Bussgeldbescheid) of 19 February 1986 the city of Heilbronn imposed on the applicant a regulatory fine (Geldbusse) for infringing Articles 37 para. 2 and 49 para. 3 no. 2 of the Road Traffic Regulations (Strassenverkehrsordnung).

On the applicant's objection (Einspruch) the District Court (Amtsgericht) of Heilbronn fixed 26 June 1986 as date of the trial. An interpreter was appointed for this hearing.

At the hearing the applicant withdrew the objection. The Court then ruled that he had to bear the costs of the proceedings.

On 10 July 1986 the Court fixed the costs to be paid by the applicant at 196.30 DM, of which 120.50 DM represented the interpreter's fee.

On 20 July 1987 the applicant entered an objection (Erinnerung) against the bill of costs to the extent that it included the interpreter's fee. He alleged a violation of Article 6 para. 3 (e) of the Convention and relied on the Öztürk judgment of 21 February 1984 (Eur. Court H.R., Series A no. 73).

On 2 September 1987 the District Court dismissed the objection as unfounded under No. 1904 of the Schedule to the Court Costs Act (Kostenverzeichnis zum Gerichtskostengesetz).

The applicant's appeal (Beschwerde) was dismissed by the Regional Court (Landgericht) of Heilbronn on 2 October 1987. The Regional Court noted that the Schedule, as amended in 1980, was lex posterior in relation to the Federal Act of 7 August 1952 (BGBl II p. 685), by which the Convention had been incorporated into domestic law, and it referred to the principle "lex posterior derogat legi priori".

#### PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 13 October and registered on 25 November 1987.

On 14 March 1989 the Commission decided to bring the application to the notice of the respondent Government and to invite them to present before 2 June 1989 their observations in writing on the admissibility and merits of the application.

By a letter of 29 May 1989 the Government informed the Commission of the terms of a draft agreement which they had sent to Rechtsanwalt Wingerter.

Under cover of their letter of 20 June 1989 the Government submitted the agreement reached between the parties.

The agreement reads as follows:

&\_(German original)&S

"VEREINBARUNG

über das Individualbeschwerdeverfahren Nr. 13402/87  
O.K. gegen die Bundesrepublik Deutschland

zwischen

Herrn O.K., Heuchelbergstrasse 72, 7100 Heilbronn-Böckingen,  
vertreten durch Rechtsanwälte Norbert Wingerter, Volker Hohbach, Anke Stiefel-Bechdorf, Christoph Haussmann in Heilbronn

und

der Bundesrepublik Deutschland vertreten durch Ministerialdirigent  
Dr. Meyer-Ladewig, Bundesministerium der Justiz, 5300 Bonn 2

1. Dem Beschwerdeführer werden die in dem Bussgeldverfahren vor dem Amtsgericht Heilbronn - 31 OWi 3183/86 - entstandenen und von ihm gezahlten Dolmetscherkosten von 120,50 DM zurückerstattet.
2. Die Bundesregierung zahlt dem Beschwerdeführer zur Abgeltung der ihm im Erinnerungs- und Beschwerdeverfahren gegen diesen Kostenansatz und anlässlich der Einlegung der Individualbeschwerde bei der Europäischen Menschenrechtskommission entstandenen Kosten und Auslagen einen Betrag von insgesamt 600,- DM (sechshundert Deutsche Mark).
3. Die Beträge zu 1. und 2. werden an die Verfahrensbevollmächtigten des Beschwerdeführers, Rechtsanwälte Norbert Wingerter, Volker Hohbach u.a. überwiesen, die sich verpflichten, die Bundesregierung hinsichtlich der Zahlung gegenüber dem Beschwerdeführer freizustellen.
4. Der Beschwerdeführer erklärt die Beschwerde hiermit für erledigt und ist mit der Streichung aus dem Register durch die Europäische Kommission für Menschenrechte einverstanden.

Bonn, den 29. Mai 1989

Heilbronn, den 1.6.1989

gez. Meyer-Ladewig

gez. Wingerter

(Ministerialdirigent  
Dr. Meyer-Ladewig)

(Rechtsanwalt Wingerter)"

&S(English translation)&\_

"AGREEMENT

concerning the proceedings relating to individual Application No. 13402/87  
O.K. against the Federal Republic of Germany

between

Mr. O.K., Heuchelbergstrasse 72, 7100 Heilbronn-Böckingen,  
represented by MM. Norbert Wingerter, Volker Hohbach, Mrs. Anke  
Stiefel-Bechdorf and Mr. Christoph Haussmann, lawyers in Heilbronn,

and

the Federal Republic of Germany, represented by Dr. Meyer-Ladewig,  
Ministerialdirigent, Federal Ministry of Justice, 5300 Bonn 2

1. Interpretation costs of 120.50 DM incurred in regulatory proceedings (Ref. 31 OWi 3183/86) before the Heilbronn District Court and paid by the applicant shall be reimbursed.
2. In satisfaction of the costs and expenses incurred by the applicant in the objection and appeal proceedings to the above-mentioned bill of costs and in the submission of the application to the European Commission of Human Rights, the Federal Government shall pay to the applicant the sum of 600 DM (six hundred Deutschmark).
3. The sums referred to in paragraphs 1. and 2. above shall be paid to the applicant's representatives in the proceedings, MM. Norbert Wingerter, Volker Hohbach and others, who undertake to indemnify the Federal Government against the applicant in respect of the payment.

4. The applicant declares that the application is settled and that he agrees to it being struck out of the list of cases of the European Commission of Human Rights.

Bonn, 29 May 1989

Heilbronn, 1.6.1989

(signed) Meyer-Ladewig

(signed) Wingerter

(Ministerialdirigent  
Dr. Meyer-Ladewig)

(Rechtsanwalt Wingerter)"

The Government state that they have arranged for the above sums to be paid. They request that the application be struck out of the Commission's list of cases.

#### REASONS FOR THE DECISION

Rule 44 para. 1 of the Rules of Procedure provides:

"1. Unless it considers that any reason of a general character affecting the observance of the Convention justifies further examination of an application, the Commission may strike it out of its list of cases:

- a. where the applicant states that he wishes to withdraw his application; or
- b. where the circumstances ... lead to the conclusion that he does not intend to pursue his application."

The Commission notes that the parties have reached an agreement on the applicant's claims. The Government request that the application be struck off the list. The applicant states that his application is settled and he agrees to the Government's request.

The Commission finds no reason of a general character affecting the observance of the Convention which, following the above agreement between the parties, necessitates a further examination of the present application. It notes that, in view of the Öztürk judgment, the Federal Republic of Germany has, by Article 2 para. 1 of an Act of 15 June 1989 (Gesetz zur Regelung des Geschäftswertes bei land- und forstwirtschaftlichen Betriebsübergaben und zur Änderung sonstiger kostenrechtlicher Vorschriften, BGBl I p. 1083), amended Nr. 1904 of the Schedule to the Court Costs Act. Under the amended provision interpretation costs incurred in regulatory proceedings will only be claimed from the accused if the court finds that he caused them unnecessarily.

For these reasons, the Commission

DECIDES TO STRIKE THE APPLICATION OFF ITS LIST OF CASES.

Secretary to the Commission

President of the Commission

(H.C. KRÜGER)

(C.A. NØRGAARD)